

**-- FILE COPY --**

**HUDSON PLANNING BOARD  
MEETING MINUTES  
September 24, 2008**

**I. CALL TO ORDER**

Chairman Barnes called this Planning Board meeting to order at 7:09 p.m. on Wednesday, September 24, 2008, in the Community Development meeting room in the Hudson Town Hall basement.

**II. PLEDGE OF ALLEGIANCE**

Chairman Barnes asked Ms. Stewart to lead the assembly in pledging allegiance to the Flag of the United States of America.

**III. ROLL CALL**

Chairman Barnes asked Secretary McGrath to call the roll. Those persons present, along with various applicants, representatives, and interested citizens, were as follows:

**Members**

**Present:** James Barnes, George Hall, Marilyn McGrath, Suellen Quinlan, Terry Stewart, and Richard Maddox (Selectmen's Representative) .

**Members**

**Absent:** Vincent Russo (excused).

**Alternates**

**Present:** Ken Massey (Selectmen's Representative Alternate) .

**Alternates**

**Absent:** Brion Carroll (excused) and Tierney Chadwick (excused).

**Staff**

**Present:** Town Planner John Cashell.

**Recorder:** None. (Minutes were transcribed from DVD.)

**IV. SEATING OF ALTERNATES AND ANNOUNCEMENTS**

Chairman Barnes noted that there were no alternates present to seat in place of the missing member.

**V. MINUTES OF PREVIOUS MEETING(S)**

Chairman Barnes addressed the minutes for the meeting of 05 -14-08, provided in the 09-10-08 packet, asking if there were any changes or corrections

Mr. Barnes requested the following changes:

- Page 3, Bullet 7 — the text said “ Point sever” but should read “ Point seven.”
- Page 6, last sentence on the page — the word “stati ng” was misspelled.
- Page 7, next -to-last paragraph, third sentence —“the Board” should be clarified to show that the Board of Selectmen was meant.

No further changes or corrections being brought forward, Ms. McGrath moved to accept the minutes as amended; Ms. Stewart seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members present voted in favor, and Chairman Barnes declared the motion to have carried (6 -0).

Chairman Barnes addressed the minutes for the meeting of 06-25-08, provided in the 07-23-08 packet, asking if there were any changes or corrections. None being brought forward, Ms. McGrath moved to accept the minutes as submitted; Mr. Hall seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members present voted in favor, and Chairman Barnes declared the motion to have carried (6-0).

The 07-09-08 Minutes, provided in the 08 -06-08 packet; the 07-23-08, 08-06-08, and 08-13-08 minutes, provided in the 09 -10-08 packet, and the 08 -27-08 minutes, provided in the 09-24-08 packet, were not reviewed by the Board this evening. Chairman Barnes asked that the Board be prepared to review the minutes of July 23<sup>rd</sup> and August 6<sup>th</sup> at the next meeting.

**VI. CORRESPONDENCE**

Chairman Barnes stated that items of correspondence received in tonight's handouts would be taken up in conjunction with the associated cases.

**VII. PERFORMANCE SURETIES**

No **Performance Sureties** items were addressed this evening.



Development in November of 1992. He said the only one of these plans that ever came to fruition was the 3700 -ft<sup>2</sup> addition to the building on the adjoining property. He said that Mr. Chasse had not utilized the previously approved site plan but had submitted an amended plan, re -orienting the building to suit his operation, with Mr. Chasse having paid a CAP fee for 15,000 ft<sup>2</sup> of industrial use in 2000. In 2004, he continued, Mr. Chasse had proposed to expand his facility and had again paid the CAP fees associated with that additional square footage at that time . He then asked that the Board make a fair CAP fee assessment, given the fact that CAP fees had previously been paid for square footage exceeding what was being proposed at this time .

Chairman Barnes clarified that the originally paid CAP fees included the building on Lot 15, which was not part of the current plan. Mr. Colburn concurred, noting that two of the four plans submitted by the Tates in 1989 pertained to two lots which were being consolidated into one by this plan, with the fourth lot still being owned by B&D Development. He noted that there would be 18,031 ft<sup>2</sup> for the new facility, 13,800 ft<sup>2</sup>, for the expansion , totaling 31,841 ft<sup>2</sup>.

Members of the Board expressed concern about the need to have time to read through the material that had been received in order to make an intelligent decision. Mr. Hall expressed a belief that the Board had already had most of the documentation passed out by Mr. Colburn, adding that he was satisfied that the Board should not be looking for any additional CAP fees for what was being proposed. He then noted that he had calculated a different square footage than what had been specified by Town Planner Cashell , saying Mr. Cashell appeared to have left out the 1200 -ft<sup>2</sup> addition on the end of the building, so that the total actually should be 19,691 ft<sup>2</sup> for warehouse space, instead of 18,241 ft<sup>2</sup>. He suggested that the best approach would be to disregard anything about the existing building , for which the CAP fees had already been paid, and also that anything on Lot 15 should be disregarded, as that had nothing to do with this application. What was approved in 1989, he continued, was 6,914 ft<sup>2</sup>, of office space, which was exactly what was being proposed now. He noted that this left two buildings on Lots 39 and 38 for a total of 28,013 ft<sup>2</sup> of industrial space, with the combination of warehouse and industrial adding up to 31,491 ft<sup>2</sup>, Mr. Hall said the Tates should not have had to pay the CAP fees in 1989, as there had not been any impact, and they had had to pay CAP fees ten years ago for some 30,700 ft<sup>2</sup> of development that never got developed, so he felt they should be entitled to the same amount of development in the same categories today. He said he had to accept what was written in the minutes and he assumed the moneys were collected. He then expressed a belief that the Board should approve the plan without charging new CAP fees, with the proviso that there would be no carrying forward of other left-over fees, saying he wanted to end the matter at this time and call it done.

Selectman Maddox asked if this advance collection of CAP fees had been the practice of the Planning Board at that time. Mr. Hall said he had not been on the Board then, but he was reading the minutes. Ms. McGrath said she had not been on the Board at that time, but she recalled that the Planning Board at that time was controlled by a multitude of developers —adding that she did recall that the Planning Board did not collect fees in advance when she had been on the Board previously to that. Selectman Maddox then said that he was of the same opinion as Mr. Hall, but he felt that the

Board should approve the plan with the understanding that the square footage had been used and that there would be no more credit for CAP fees in the case of future development, with a record being left so that future developers and/or Planning Board members would not be again trying to figure out where they were.

Mr. Tony Basso, of the firm of Keach -Nordstrom Associates, Inc., Bedford, New Hampshire, appearing before the Board as the engineering representative of the property owner, expressed concurrence saying this was absolutely fine and there was no intention of carrying this on any further —adding that it was time that this would end and that they would not be looking to get back any additional square footage. He noted that the same stipulation also had been applied for the Merchants' Square development, but that this was unusual and had not been done for other plans, so far as he knew.

Ms. McGrath expressed agreement with Selectman Maddox and Mr. Hall, saying she had checked the numbers and they added up. She then advised that the landscaping note should say "in perpetuity," not "for perpetuity." Mr. Colburn agreed.

Selectman Maddox moved to approve the Site Plan entitled **Map 110, Lot 39 Non-Residential Site Plan SL Chasse Welding & Fabricating, Inc., 8 Christine Drive, Hudson, NH**, prepared by Keach -Nordstrom Associates, Inc., dated: December 27, 2007, revised through September 5, 2008, consisting of Sheets 1 through 23 and Notes 1 through 22, in accordance with the following terms and conditions:

1. All stipulations of approval shall be incorporated into the Development Agreement, which shall be recorded at the Hillsborough County Registry of Deeds, together with the Plan.
2. All improvements shown on the Site Plan -of-Record, including Notes 1 -22, shown on the Master Site Plan Sheet, shall be completed in their entirety and at the expense of the applicant or his assigns.
3. Endorsement of the Site Plan -of-Record is contingent upon the developer receiving approval by the Town to install municipal water service to the development parcel, with written approval of same provided by the Hudson Fire Department and the Board of Selectmen.
4. A Cost Allocation Procedure (CAP) amount of zero dollars shall be assessed to this project in consideration of the CAP fees paid. The 31,841 square footage of this project approval takes into consideration part of the CAP fee paid on November 5, 1992, in the amount of \$6,080.00 as the total CAP fee assessed to this site plan. Any future expansion of this lot, as well as any expansion of Map 105, Lot 15, shall be assessed applicable CAP fees for that added square footage at the time of site plan approval.
5. Prior to the issuance of a final certificate of occupancy, an LLS-certified "As Built" site plan shall be provided to the Town of Hudson Community Development Department, confirming that the site conforms to the Planning Board approved site plan.

6. Maintenance of the onsite drainage system shall be constructed and maintained in compliance with the NHDES requirements for such systems.
7. Construction activities involving the subject lot shall be limited to the hours between 7:00 a.m. and 5:00 p.m., Monday through Saturday.
8. Hours for refuse removal and deliveries of supplies shall be no earlier than 7:00 a.m. and no later than 7:00 p.m. Monday – Friday only.
9. This plan shall be subject to final engineering review and approval.
10. The applicant's engineer and/or contractor shall contact the Town to schedule a preconstruction meeting, which will be held with staff prior to starting construction.
11. Prior to the issuance of a Building Permit for this site, the applicant or his/her assigns shall receive the necessary NHDES Alteration of Terrain Permit.
12. The Town shall reserve the right to require additional erosion control measures during construction.
13. Prior to Planning Board endorsement of the Plan -of-Record, new Note #23 shall be added to the Master Site Plan and read as follows:

"No. 23. If lot development involves blasting and/or ramming of bedrock materials, said activities shall be limited to the hours between 7:00 a.m. and 5:00 p.m. Monday through Saturday only. Said blasting/ramming activities shall be prohibited on Sundays. "

Mr. Hall seconded the motion.

Ms. Quinlan said she thought the Board had worked very hard on this, but she believed the same argument would be raised when the other lot came in, so she would vote against this motion, noting that this development alone had expanded on the originally planned use such that it was almost equal to what had been proposed for all four of the original lots, and she felt the Town was being deprived of CAP fees, while the owners were able to expand, and they should be held accountable.

Selectman Maddox expressed agreement; he then offered to provide a Stipulation 14 pertaining to Lot 15. Mr. Hall demurred, saying that was already covered sufficiently in Stipulation 4. Selectman Maddox concurred.

**VOTE:** Chairman Barnes then called for a verbal vote on the motion. All members present voted in favor except for Ms. Quinlan, who voted in opposition, and Chairman Barnes declared the motion to have carried (5 –1).

**B. Lindquist Subdivision  
SB# 06-08**

**Map 173/Lots 7 & 8  
Webster Street**

**Purpose of plan: To relocate the lot line between Lots 6 & 7 on Map 173 to consolidate Lots 7 & 8 on Map 173, and to re-subdivide the new lot into four building lots for residential. Hearing. Deferred Date Specific from the 09-10-08 Planning Board Meeting.**

Chairman Barnes read aloud the published notice, as repeated above.

Town Planner Cashell noted that he had provided a new version of the staff report, as Page 2 had been omitted in the mailed -out copy.

Mr. Tony Basso, of the firm of Keach -Nordstrom Associates, Inc., Bedford, New Hampshire, appearing before the Board as the engineering representative of the property owner, Susan Lindquist, recalled that the plan had been deferred two weeks ago for discussion of the Heritage Trail and also to revise the Impact Fee note to remove the annual inflation indexing text. He said his firm had looked into getting a plan for the Heritage Trail, reporting that the Nashua Regional Planning Commission had not been able to find such a plan but that one had been found in the Hudson Town Hall—adding that this plan showed the section of the river bank in front of the property in question as being steep and not walkable. He noted that this was not a detailed map, and he then stated that the applicant was providing an easement on top of the bank, with the plan having been revised accordingly, as shown in the copy of the plan displayed on the meeting room wall : ***Lotline Adjustment, Consolidation, and Adjustment Plan, Lindquist Subdivision, Map 173, Lots 6, 7, and 8, Webster street, Hudson, New Hampshire, Hillsborough County***, prepared by KM Associates, dated 06-06-08, last revised 09-12-08

Ms. Quinlan, who also served on the Hudson Conservation Commission, expressed appreciation for the applicants for having provided the Heritage Trail easement, saying the trail might never come to fruition, but it was important for all landowners along the river to provide that easement in case the trail might become a reality in future years.

Mr. Hall moved to approve the plan entitled ***Lot Line Adjustment, Consolidation & Subdivision Plan Lindquist Subdivision Plan Map 173, Lots 6, 7 & 8 Webster Street, Hudson, NH***, prepared by Keach -Nordstrom Associates, Inc., dated: June 6, 2008, revised through September 12, 2008, consisting of Sheets 1 through 4 and Notes 1 through 21, in accordance with the following terms and conditions:

1. All stipulations of approval shall be incorporated into the Decision of Approval, which shall be recorded at the Hillsborough County Registry of Deeds, together with the Plan.
2. Prior to Planning Board endorsement of the Plan, Town Counsel shall review and favorably recommend on the 20 -ft wide Heritage Trail Pedestrian Easement, which as depicted on the Plan, shall run along the lower bank shelf on Lot 6, Map 173, and transition to the top shelf of the river bank on Lots 7 & 8 of Map 173. Said easement document shall be recorded at the Hillsborough County Registry of Deeds together with the Plan.

3. This approval decision takes into consideration the Zoning Board of Adjustment's Decisions to grant a Use Variance for residential dwellings in a Business Zoning District and dimensional variances for Lots 1, 2 & 4 (see respective Case 3s 173 -7 & 8. recorded at the Hillsborough County Registry of Deeds , Book 7988 Page 2662 – 2665.
4. All monumentation shall be set or bonded for prior to the Planning Board endorsing the plan-of-record.
5. Prior to Planning Board endorsement of the plan, Note 17 shall be amended to read: "17. This plan set contains four (4) sheets."

Ms. Stewart seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 -0).

#### XI. NEW BUSINESS/PUBLIC HEARINGS

No **New Business** items were addressed this evening.

#### XII. OTHER BUSINESS

Chairman Barnes noted that Ms. Sandra Rumbaugh, chairman of the Conservation Commission had been present earlier but had left. Ms. Michelle Champion, also a member of the Conservation Commission, noted that she was present. Chairman Barnes noted that there was nothing on the agenda.

Town Planner Cashell said there was a very formal process of submission to get an item on the Planning Board agenda; he advised all members of the Planning Board who felt that anyone should come before the Planning Board should tell any such persons to get in touch with him first, as things had to be put in writing and applications needed to be completed so that he would have a chance to set things up right. He said people could come before the Board if there were time on the agenda, but to formally come before the Board required preparation, as the Planning Board members liked to have things in writing, sent out to them on the preceding Thursday, with things being posted so that public would get notice of what was being discussed. He said he never got anything in writing for this agenda from the Conservation Commission, but had received an E-mail with attached links, which had come too late to be put on the agenda, but he had told the persons involved that they could come before this Board tonight, as it was a short meeting, and the Board could deal with the matter under **Other Business**. He said the Board could then decide where it wanted to put the item on another agenda —adding, however, that next week's workshop agenda was already pretty busy.

Ms. Michelle Champion said Mrs. Rumbaugh had been under the impression that the matter would be on tonight's agenda and/or the October workshop. She said she did not think that Mrs. Rumbaugh had known she had to submit something in writing.

Town Planner Cashell suggested that this policy had to be straightened out, but that anyone could come before the Board when there was such a light agenda as this evening.

Selectman Maddox said there should be something in writing before the Board.

Ms. Champion, a Conservation Commission member, said the Conservation Commission had for a long time been talking about doing a tree ordinance, noting that was mentioned at the Joint Workshop each year but never went any further. She said a Conservation Commission member had volunteered to dedicate himself to that but had subsequently moved out of town, so she had volunteered to take it on herself. She said she had located a copy of the previously proposed tree ordinance, but then had gone with Mrs. Rumbaugh to a cTap workshop, taught by Mary Keebo, who was the New Hampshire Cooperative Extension who had previously taught a tree steward course. She said she had talked to Ms. Keebo about the tree warden referenced in the tree ordinance draft, and Ms. Keebo had responded that this must be a pretty outdated tree ordinance and also that she was in the process of submitting something to the Innovated Land Use Techniques Handbook —adding that, rather than just cover trees, this was a landscape ordinance, which she recommended as an alternative. Ms. Champion said she had downloaded that ordinance and the Conservation Commission had discussed it at its August meeting, deciding that this was something the Commission wished to discuss with the Planning Board, to see if the Planning Board would be interested in pursuing it. She explained that she had sent a link rather than a printed copy, as it appeared to be a dynamic document and had grown some additional pages.

Ms. Champion distributed copies of the new version and outlined its contents, noting that it contained a model ordinance with commentary. She said the Commission wished to discuss this with the Planning Board at a workshop meeting. She then noted that the Conservation Subdivision ordinance mentioned at the last Joint Workshop also was now available for discussion, noting that Hudson's present landscaping regulations were pretty minimal. She noted that the document was conservation oriented, talking about maintaining buffers and planting native species instead of invasive species, and emphasized the street tree approach. She said the present Open Space Development regulations appeared to be too inflexible, as the Commission was being told by developers that they could not vary the rules for conservation purposes with respect to putting in environmentally friendly cul-de-sacs, smaller lots concentrated in certain areas, etc. She explained that the difference with this approach was that it started from the beginning with a conservation design, by looking first to see what conservation resources should be protected before roads and houses were planned.

Ms. Champion then stated that all she wanted to do this evening was determine whether the Planning Board was interested in pursuing one or the other or both —and, if so, to schedule it accordingly for an upcoming workshop meeting. She said Town

Planner Cashell had said the Board was rather tied up at this time with ALU ordinance revisions and other things.

Town Planner Cashell reviewed the things already scheduled for the October workshop, including Sign Ordinance revisions, which had to be scheduled for a public hearing. He said the Home Occupation and Accessory Living Unit issues might have to be pushed off to the November workshop, as Ms. Maryellen Davis might not be able to attend in October because of illness in the family, but Mr. Carroll would like to give his critique on the Lower Merrimack River Advisory Committee study, and Mr. Cashell had also scheduled finalization of the Planning Board's Rules of Procedure, as well as looking at the possibility of adopting some fire regulations for site plans.

Selectman Maddox said this looked like the Planning Board's agenda for the year. He suggested that the Board should pick one or two of these things and move forward diligently, rather than trying to do everything and getting nothing done.

Ms. McGrath asked if anything were scheduled for the November workshop. Mr. Cashell said it would be only whatever was carried over from the October workshop. He noted, however, that time was of the essence, if the Board expected to get public hearings done to get ordinances ready for the Town Warrant. Recalling the amount of time that had been spent with the Village Alternative Zoning Ordinance proposal, Mr. Cashell said the Tree Ordinance would need some time for the Board to delve into; he said the Board could look at it in November, but he did not know if the Board would be satisfied with the content in time for the March Town Warrant, as the public hearings would have to be squared away by the end of December.

Chairman Barnes asked if the Conservation Commission were trying to get one or both of these ordinance changes on the March warrant, or just trying to start the process. Ms. Champion said she thought the need was to start the process. Knowing how detailed the Planning Board's discussion was apt to be, she added, she was sure there would be a lot of discussion on the landscaping ordinance in order to determine the applicable numbers. She expressed a desire to get the discussion into the queue, so that it would be ready for next year, saying she wanted to get an up-front determination of whether the Planning Board would be interested in working on this, rather than have the Conservation Commission spend hours working on it and then having the Planning Board not be interested.

Mr. Hall asked if Ms. Champion were talking about landscaping and open-space subdivision. Ms. Champion responded in the affirmative. Mr. Hall noted that the Planning Board had spent a lot of time on landscaping when the State came out with the certification program for landscape design, because the Board had recognized that the current regulations were a little lean—adding that the Board had wanted to have Ms. Cynthia May develop landscaping regulations, but had run into opposition to spending money to have a professional do that. He expressed a belief that it would take the Planning Board a long time to work on the two concepts that Ms. Champion had introduced, and he suggested that she should put together some sort of presentation—adding that one way to get the Board focused would be to consider adding some paragraphs to the existing landscaping requirements.

Ms. Champion clarified that what she had in mind was to develop parts of the documentation she had distributed, noting that it had different approaches in it. Mr. Hall suggested that the Conservation Commission first needed to point out to the Planning Board what the problems were with the existing ordinances and regulations, after which the Planning Board might want to make a few changes.

Town Planner Cashell said the Planning Board typically would pick a set of topics to tackle for the year, doing that early in the year, and it took a number of months to work through everything and finalize it for the Town Warrant. He noted that the Planning Board was now trying to finalize some zoning things it had been working on since last May. He suggested that these could be two main items that the Planning Board would work on next year, saying he did not think there was time to delve into it this year, but starting in January or February. Ms. McGrath concurred, suggesting that this be scheduled for the January workshop —adding that it would be easier to amend the site plans regulations to incorporate the critical landscaping requirements, rather than developing an ordinance for a warrant article. Mr. Hall suggested that February would be better, as no one would be focused during the holiday season —adding that this would give the Conservation Commission time to come up with an explanation of what the problems were.

Ms. Champion said she thought that would be fine. She then asked what kind of format should be used. Mr. Hall said it could be in outline form, but should be written up, so that the Planning Board members could study it. Selectman Maddox suggested that a top-ten list approach be used, to determine priorities of what should be fixed.

Mr. Hall noted that Ms. Champion had mentioned street trees; he expressed a belief that most of the Planning Board members would be happy to put in something on street trees, specifying the species and spacing, etc. —adding that this would be easy to add to the existing landscaping regulations. He said the Planning Board would need something in writing by January, so that it could be prepared for the February workshop.

Chairman Barnes expressed appreciation for Ms. Champion's having come before the Board, noting that the Board would wait until the Conservation Commission sent something forward for review.

Selectman Maddox noted that the Planning Board approved some apartments on Old Windham Road a while back, but that had not happened, and the units were now going to be condos. He said the developer would have to come back, however, as one of the items on the approval was that there would be commercial trash pickup. He said this had happened because the Planning Board did not put into the approval a stipulation that these would be apartments in perpetuity. Referencing the current state-wide discussions about workforce housing, he noted that the Planning Board had thought it was doing the right thing by providing for rental properties, but now the thing had gone another way.

Mr. Hall asked that Selectman Maddox bring the Board up to speed on the issue of bonding and impact fees for schools. Selectman Maddox said it was on the School Board's agenda, saying he would have something to report at next week's meeting.

Town Planner Cashell referenced a handout from the Town Attorney with regard to the previously advertised public hearing on automotive fuel stations, stating that the correct wording had been determined.

Selectman Maddox moved to re-advertise the Notice of Public Hearing for a Proposed Site Plan Regulations 275 -8 (26) (a) Amendment. Mr. Hall seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor, and Chairman Barnes declared the motion to have carried unanimously (6 -0).

### XIII.ADJOURNMENT

All scheduled items having been addressed, Ms. Stewart moved to adjourn; Mr. Hall seconded the motion.

**VOTE:** Chairman Barnes called for a verbal vote on the motion. All members voted in favor.

Chairman Barnes then declared the meeting to be adjourned at 8:28 p.m.

Date: October 27, 2008

\_\_\_\_\_  
James Barnes, Chairman

J. Bradford Seabury, Recorder

\_\_\_\_\_  
Marilyn McGrath, Secretary

These minutes were accepted as submitted following review at the 09-23-09 Planning Board meeting.